

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DORALINDA LOPEZ,

Plaintiff,

v.

KILOLO KIJAKAZI, acting  
Commissioner of Social Security,

Defendant.

No. 1:21-cv-01558-GSA

ORDER VACATING OLD SCHEDULING  
ORDER AND SETTING NEW SCHEDULE

(DOC. 12)

The scheduling order in this matter, Doc. 12, is vacated and replaced with the below.

Plaintiff seeks judicial review of an administrative decision of the Commissioner of Social Security denying plaintiff's claim for disability benefits under the Social Security Act. This case is before the undersigned pursuant to 42 U.S.C. §§ 405(g), 1383(c)(3) and Local Rule 302(c)(15).

Should the parties wish to consent to the jurisdiction of the Magistrate Judge for all purposes, including entry of final judgment, they may do so using the "Consent to Assignment or Request for Reassignment" form. See 28 U.S.C. § 636(c). There is no obligation to consent, and the judges will not be notified of a party's designation unless all parties have consented. See Fed. R. Civ. P. 73(b)(1). If any party requests reassignment to a United States District Judge, the Clerk of the Court will assign a random District Judge as presiding judge, with the Magistrate Judge continuing for those purposes anticipated by the Local Rules. Accordingly, within 90 days, all

1 parties shall complete and return the Consent to Assignment or Request for Reassignment form.

2 Good cause appearing and pursuant to Fed. R. Civ. P. 16, the Court ORDERS:

3 1. In an action for judicial review filed by a single plaintiff solely against the  
4 Commissioner of Social Security Administration (defendant) that raise claims pursuant to 42  
5 U.S.C. § 405(g) only, service on the defendant shall proceed under the Court's E-Service program  
6 as follows. Once a summons is issued, the Clerk of Court shall deliver to the Commissioner of  
7 Social Security Administration and the United States Attorney's Office at their designated email  
8 addresses a notice of electronic filing of the action along with the summons and complaint. The  
9 Commissioner has agreed not to raise a defense of insufficient service of process if provided with  
10 notice of a complaint as detailed in this order. This order is not intended to prevent parties from  
11 making any other motions that are appropriate under the Federal Rules of Civil Procedure.

12 2. **On or before July 14, 2022<sup>1</sup>** defendant shall file a copy of the administrative  
13 record, the filing of which shall be deemed an answer to the complaint.

14 3. **Within 45 days after service of the administrative record,** the plaintiff shall file  
15 the motion for summary judgment.

16 4. **Within 45 days after service of plaintiff's motion for summary judgment,** the  
17 defendant shall file the responsive brief.

18 5. **Within 15 days after filing of defendant's responsive brief,** the plaintiff shall  
19 file the optional reply brief.

20 6. **Each party is entitled to 1 briefing extension of up to 28 days** without consent  
21 of the opposing party and without leave of court. The party availing themselves of the extension  
22 shall file with the court a Notice of Briefing Extension indicating the original deadline and the  
23 new deadline. All other deadlines will automatically adjust accordingly.

24 7. In those cases where a Fed. R. Civ. P. 12 motion to dismiss is warranted, the  
25 defendant shall file a motion to dismiss in lieu of filing the administrative record. The motion to  
26 dismiss shall be filed within 90 days of service of the complaint. The opposing brief shall be filed

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28 <sup>1</sup> The summons states a response is due within 60 days of service. See Fed. R. Civ. P 12(a). This order grants the Commissioner an additional 30 days to file its response.

1 within 14 days after service of the motion. The reply brief shall be filed within 7 days after  
2 service of the opposition brief. The motion to dismiss shall NOT be noticed for hearing.

3 8. All references to the record and all assertion of fact must be accompanied by  
4 citations to the record. The opening and responsive brief shall contain the following:

5 (a) A description of the plaintiff's alleged physical or mental impairments,  
6 including when the plaintiff contends the impairments became disabling, and how these  
7 impairments disable the plaintiff from work;

8 (b) A summary of all relevant medical evidence.

9 (c) A summary of the relevant testimony at the administrative hearing;

10 (d) A recitation of the defendant's relevant findings and conclusions.

11 (e) A short, separate statement of each of the plaintiff's legal claims stated in  
12 terms of the insufficiency of the evidence to support findings of fact or reliance upon an  
13 erroneous legal standard; and

14 (f) Argument separately addressing each claimed error. Argument in support  
15 of each claim of error must be supported by citation to legal authority and explanation of the  
16 application of such authority to the facts of the particular case. Briefs that do not substantially  
17 comply with these requirements will be stricken.

18 9. Motions for attorney fees shall be filed within 30 days of final judgment entry.

19 10. Except as set forth in paragraph six (6) above, requests for modification of this  
20 briefing schedule will not routinely be granted, and any such request must be made by written  
21 motion only, indicating whether the motion is opposed and explaining good cause for the request.  
22 The parties shall not submit proposed orders on extensions to chambers. A request for a  
23 modification brought on the filing deadline will be looked upon with disfavor. Local Rule 144(d).

24 11. Violations of this order or of the federal rules of procedure or the Local Rules may  
25 result in sanctions pursuant to Local Rule 110.

26 Dated: April 19, 2022

27 /s/ Gary S. Austin  
28 UNITED STATES MAGISTRATE JUDGE